

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Adrian Nunez,

Defendant.

Order

22 Cr. 636

WHEREAS the Court has reviewed the report of Dr. Eric Goldsmith, dated January 6, 2023, concerning the mental competence of the defendant (the “Report”); and

WHEREAS the parties now further respectfully and jointly waive the hearing described in 18 U.S.C. § 4241(a) and (c) and submit that the Report provides a sufficient basis from which to conclude by a preponderance of the evidence that the defendant is mentally incompetent to the extent that he is unable to assist properly in his defense;

THE COURT HEREBY FINDS by a preponderance of the evidence that the defendant is mentally incompetent to the extent that he is unable to assist properly in his defense pursuant to 18 U.S.C. § 4241(d); and

IT IS HEREBY ORDERED that the Bureau of Prisons (“BOP”) hospitalize the defendant for treatment at a Federal Medical Center (“FMC”) for a reasonable period of time, up to four months, as necessary to determine whether there is a substantial probability that in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward, pursuant to 18 U.S.C. § 4241(d)(1); and

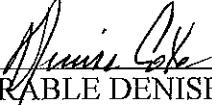
IT IS FURTHER ORDERED that BOP provide a status report to the Court and parties after the defendant has been residing at the FMC for 60 days detailing whether the defendant has been prescribed any psychiatric medications to restore his competency, and the defendant’s compliance with such medication. If the defendant is not compliant with the course of treatment recommended by the BOP, the status report should also include whether the evaluator recommends involuntary treatment for the purposes of competency restoration pursuant to *Sell v. United States*, 539 U.S. 166 (2003) and the reasons supporting the evaluator’s recommendation; and

IT IS FURTHER ORDERED that at the conclusion of such reasonable period of time, up to four months, the BOP shall prepare an additional report on the mental competence of the defendant, which specifically addresses whether the defendant has been restored to competence and, if not, whether there is a substantial probability that hospitalization for an additional reasonable period of time will permit the defendant’s restoration to competence; and

The Court also recommends that, to the extent possible, the defendant be sent to an FMC as close as possible to the New York City metropolitan area.

Dated: New York, New York

February 3, 2023


THE HONORABLE DENISE L. COTE
UNITED STATES DISTRICT JUDGE